

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION**

MDL No. 1456

Civil Action: 01-CV-12257-PBS

**THIS DOCUMENT RELATES TO:
ALL ACTIONS**

Judge Patti B. Saris

**RESPONSE TO PROPOSED FINAL ORDER AND JUDGMENT GRANTING FINAL
APPROVAL TO PROPOSED TRACK TWO CLASS ACTION SETTLEMENTS,
APPROVING PROPOSED ALLOCATION OF SETTLEMENT FUNDS, AND
APPROVING CLASS COUNSEL'S APPLICATION FOR ATTORNEYS' FEES,
REIMBURSEMENT OF LITIGATION EXPENSES AND COMPENSATION FOR
CLASS REPRESENTATIVES**

The undersigned firms or counsel Kline & Specter, P.C., Williams Law Firm, Law Office of Adam S. Levy, LLC and Adam S. Levy, and Jennings Haug & Cunningham, LLP (collectively, "Movants") hereby object to one aspect of the Proposed Final Order and Judgment Granting Final Approval to Proposed Track Two Class Action Settlements, Approving Proposed Allocation of Settlement Funds, and Approving Class Counsel's Application for Attorney's Fees, Reimbursement of Litigation Expenses and Compensation for Class Representatives.

More specifically, on November 17, 2011 the undersigned firms filed a Motion for Modification of Lead Counsel's Allocation of Fees to Include Time and Expense Incurred in Related State Court Actions.¹ The issue of allocation of fees is still pending before the Court. However, paragraph 18 of the proposed order states that "[t]he attorneys' fees and expenses awarded by the Court shall be allocated among Class Counsel by Lead Class Counsel at their

¹ Law Office of Adam S. Levy, LLC and Adam S. Levy joined in the pending Motion. Separately, they have also filed a Motion for Modification of Lead Counsel's Allocation of Fees and Reimbursement of Expenses to Include Uncounted Time and Expense Incurred Directly in this MDL.

discretion.” This should not be adopted as a live dispute exists. *See* proposed final order attached hereto as Exhibit “A” at ¶ 18.

Pursuant to the Court’s request at the hearing held on November 22, 2011, counsel are discussing resolution of the fee dispute and will report back to the Court if and when these discussions prove fruitless or successful.

Respectfully,

/s/ Shanin Specter
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**CERTAIN CLASS COUNSEL FOR
PLAINTIFFS**

CERTIFICATE OF SERVICE

I hereby certify that on this date, December 7, 2011, a Response To Proposed Final Order And Judgment Granting Final Approval To Proposed Track Two Class Action Settlements, Approving Proposed Allocation Of Settlement Funds, And Approving Class Counsel's Application For Attorneys' Fees, Reimbursement Of Litigation Expenses And Compensation For Class Representatives was duly filed and served on all counsel of record, via Lexis/Nexis.

/s/ Kathy Spurka